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Abcor Inc, Wilmington, MA Walden Div

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This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

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Wyoming

by

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U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air, Noise, and Radiation
Office of Air Quality Planning and Standards
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INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision

to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET

OF

EPA-APPROVED REGULATION CHANGES

WYOMING

Submittal Date	Approval Date	Description
4/18/73	10/23/73	Chap. I, Sec. 1 - 20 (Entire Regs.)
8/7/74	6/2/75	Chap. I, Sec. 1 - 21 (Entire Regs.)

FEDERAL REGULATIONS

Section Number	Description
52.2623	Review of New or Modified Indirect Sources
52.2630	Prevention of Significant Deterioration

DOCUMENTATION OF CURRENT EPA-APPROVED
STATE AIR POLLUTION REGULATIONS

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CHAPTER I

(2.0) Section 1. Introduction.

In accordance with Chapter 9.1, Articles 1-11, Wyoming Statutes, 1973 Cumulative Supplement, the following Air Quality Standards and Regulations are hereby promulgated by the Wyoming Environmental Quality Council.

(1.0) Section 2. Definitions.

a. The definitions contained in Section 35--502.3, Wyoming Environmental Quality Act shall be applicable, where appropriate. The following terms are used in these standards and regulations shall, unless the context otherwise requires, have the following meanings:

(1) "Administrator" means Administrator of the Division of Air Quality, Wyoming Department of Environmental Quality.

(2) "Air contaminant" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas or any combination of the foregoing, but shall not include steam or water vapor.

(3) "Air pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is materially injurious to human health or welfare, animal or plant life or property, or unreasonably interferes with the enjoyment of life or property.

(4) "Animal matter" shall mean any product or derivative of animal life.

(5) "Board" shall mean the Air Quality Advisory Board.

(6) "Control equipment" shall mean any device, contrivance, or system which prevents or reduces emissions.

(7) "Control officer" shall mean the Director of the State Department of Environmental Quality, or the Administrator of the Air Quality Division, or any employee of the Division designated by the Administrator, or any local health officer or employee designated by the Administrator.

(8) "Council" shall mean the Environmental Quality Council.

(9) "Department" shall mean the Wyoming State Department of Environmental Quality.

(10) "Director" shall mean the Director of the Wyoming Department of Environmental Quality.

(11) "Division" shall mean the Air Quality Division, Wyoming Department of Environmental Quality.

(12) "Emission" shall mean a release into the outdoor atmosphere of air contaminants.

(13) "Equivalent method" shall mean any procedure, practice, policy, system or device which can be demonstrated to produce a result adequate for the purpose required in these regulations and consistent with specified reference methods.

(14) "Existing equipment" shall mean equipment installed prior to the effective date of these regulations.

(15) "Existing source" means any stationary source other than a new source.

(16) "Facility" shall mean any property, real or personal, which may incorporate one or more sources of air pollution and shall include but not be limited to processing plants, manufacturing plants, power generator plants, refining plants, mining operations, lumber mills, ore processing plants, construction material processing operation, etc.

(17) "Fuel burning equipment" shall mean any furnace, boiler apparatus, stack, or appurtenances thereto used in the process of burning fuel or other combustible material for the purpose of producing heat or power by indirect heat transfer.

(18) "Incinerator" shall mean any equipment, device or contrivance used for the destruction of garbage, rubbish or other wastes by burning, but not wood wastes burned in devices commonly called teepee burners, silos, truncated cones, wigwam burners and other such burners used commonly by the wood products industry.

(19) "Initial start-up" shall mean that point in time when a source or group of sources actually begins operation for the purpose of generating goods or services as an end product or as an intermediate product. Start-up of a source to check functional operation of the "machinery" shall not be construed as initial start-up.

(20) "Installation" shall mean any property, real or personal, including but not limited to processing equipment, manufacturing equipment, fuel burning equipment, incinerators, or any other equipment or construction, capable of creating or causing emissions.

(21) "Maximum design production rate" shall mean the maximum production rate at which a source is designed for continuous or batch operation and for which the permit is applied.

(22) "Modification" shall mean any physical change in, or change in method of operation of, an affected facility which increases the amount of any air pollutant (to which any state standard applies) emitted by any such facility or which results in the emission of any such air pollutant not previously emitted.

(23) "Motor vehicle" shall mean those vehicles carrying people or goods on public streets or highways.

(24) "Multiple chamber incinerator" shall mean any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of two or more combustion furnaces in series physically separated by walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned.

(25) "New equipment" shall mean:

(a) Any equipment, installation, construction, article, machine or contrivance ordered, constructed or installed after the effective date of this regulation;

(b) Any equipment replaced or altered or processes changed in such a manner after the effective date of this regulation as to have an effect of increasing the production of air contaminants;

(c) Any equipment moved after the effective date of this regulation to another premise involving a change of address when said move will cause or would be expected to cause an increase in the production of air contaminants;

(d) Any equipment purchased and to be operated after the effective date of this regulation by a new owner or when a new lessee desires to operate such equipment.

(26) "New source" shall mean any stationary source, the construction or modification of which is commenced after the effective date of regulations prescribing a standard of performance applicable to such source.

(27) "Odor" shall mean that property of an emission which stimulates the sense of smell.

(28) "Open burning" shall mean a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.

(29) "Particulate matter" shall mean any material, except water in uncombined form that is or has been airborne, and exists as a liquid or a solid at standard conditions.

(30) "Person" means any individual, partnership, firm, association, municipality, public or private corporation, sub-division or agency of the state, trust, estate or any other legal entity.

(31) "Premises" shall mean any property, piece of land or real estate or building.

(32) "Process weight" shall mean the total weight of all materials introduced into any specific process which may cause emissions. Solid fuels changed will be considered as part of the process weight but liquids and gaseous fuels, combustion air, and water will not. However, water included as part of the normal charge to a beet pulp dryer process shall be considered as part of the process weight.

(33) "Reduction" shall mean any heated process, including rendering, cooking, drying, dehydrating, digesting, evaporating, and protein concentrating.

(34) "Salvage operation" shall mean any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

(35) "Source" shall mean any property, real or personal, or person contributing to air pollution.

(36) "Stack or chimney" shall mean any flue, conduit or duct arranged to conduct emissions.

(37) "Standard conditions" shall mean a temperature of 70° Fahrenheit and pressure reduced to 29.92 inches of mercury at sea level.

(38) "Trade waste" shall mean solid, liquid, or gaseous material resulting from construction or the prosecution of any business, trade or industry, or any demolition operation including but not limited to wood, plastics, cartons, grease, oil, chemicals and cinders.

(39) "Wood waste burners" shall mean devices commonly called teepee burners, silos, truncated cones, wigwam burners, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes.

(50.1) Section 3. Particulates.

a. The ambient air standards for total suspended particulates measured in accordance with recommended practices described in Designation D2009, latest revision, American Society for Testing and Materials are:

(1) 60 micrograms per cubic meter--annual geometric mean;

(2) 150 micrograms per cubic meter--maximum 24 hour concentration not to be exceeded more than once per year.

b. The ambient air standard for suspended particulates, soiling index, measured by a tape sampler, or by an equivalent method, expressed in Coh units related to optical density is:

(1) 0.4 Coh units per 1,000 lineal feet--annual geometric mean.

c. The ambient air standard for total settleable particulates, dustfall measured by a standard container of uniform cross-section, as described by Designation D1739, latest revision, American Society for Testing and Materials, or by an equivalent method are:

(1) 5 grams per square meter per month, for any 30 day period in residential areas. Includes 1.7 grams per square meter background;

(2) 10 grams per square meter per month, for any 30 day period in industrial areas. Includes 1.7 grams per square meter background.

(50.2) Section 4. Sulfur Oxides.

a. The ambient air standards for sulfur oxides measured by the pararosaniline (West-Gaeke) or equivalent methods are:

(1) 60 micrograms per cubic meter (0.02 ppm)--annual arithmetic mean;

(2) 260 micrograms per cubic meter (0.10 ppm)--maximum 24 hour concentration not to be exceeded more than once per year;

(3) 1,300 micrograms per cubic meter (0.50 ppm)--maximum 3 hour concentration not to be exceeded more than once per year.

b. Any existing facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of sulfur dioxide in the effluent to not more than 2000 ppm--maximum 2 hour average.

c. Any new facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of sulfur dioxide in the effluent to not more than four pounds per ton of acid produced (2 kgm per metric ton),--maximum 2 hour average.

(50.2) Section 5. Sulfuric Acid Mist.

a. Any existing facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge shall limit the atmospheric discharge of acid mist in the effluent to not more than 0.50 pounds per ton of acid produced (0.25 kgm per metric ton)--maximum 2 hour average, expressed as H_2SO_4.

(50.2) Section 6. Sulfation.

a. The ambient air standards for suspended sulfate measured as a sulfation rate by the lead peroxide method are:

(1) 0.25 milligrams SO_3 per 100 square centimeters per day, maximum annual average;

(2) 0.50 milligrams SO_3 per 100 square centimeters per day, maximum 30 day value.

(50.2) Section 7. Hydrogen Sulfide.

a. The ambient air standards for hydrogen sulfide, measured by the mercuric chloride method, methylene blue method, or by an equivalent method are:

(1) 70 micrograms H_2S per cubic meter, 1/2 hour average not to be exceeded more than 2 times per year;

(2) 40 micrograms H_2S per cubic meter, 1/2 hour average not to be exceeded more than 2 times in any five consecutive days.

b. Any exit process gas stream containing hydrogen sulfide which is discharged to the atmosphere from any source shall be vented, incinerated, flared or otherwise disposed of in such a manner that ambient sulfur dioxide and hydrogen sulfide standards are not exceeded.

(50.7) Section 8. Photochemical Oxidants.

a. The ambient air standard for photochemical oxidants, measured and corrected for interferences from nitrogen oxides and sulfur dioxide by the reference method described in Appendix D, Federal Register, Volume 36, No. 84, April 30, 1971, or by an equivalent method is:

(1) 160 micrograms per cubic meter (0.08 ppm)--maximum 1 hour concentration not to be exceeded more than once per year.

(50.4) Section 9. Hydrocarbons.

a. The ambient air standard for hydrocarbons, measured and corrected for methane by the reference method described in Appendix E, Federal Register, Volume 36, No. 84, April 30, 1971, or by an equivalent method is:

(1) 160 micrograms per cubic meter (0.24 ppm)--maximum 3 hour concentration (6:00 a.m. to 9:00 a.m.) not to be exceeded more than once per year.

b. Hydrocarbon emissions shall be limited by all persons handling, transporting, or storing volatile organic compounds to prevent unnecessary emissions to the extent that ambient air standards described in these standards are exceeded. Measures considered appropriate for such control, or any equivalent method shall be:

(1) All waste disposal combustion systems for organic compounds from a vapor blowdown or emergency relief system shall be burned by smokeless flares or an equally effective control device;

(2) The storage of gasoline or petroleum distilleries having a Reid Vapor Pressure (RVP) in excess of five pounds in any stationary tank, reservoir, or other container of more than 65,000 gallons shall be in a pressure tank capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere;

(3) Floating roofs, consisting of a pontoon type, double deck type roof, or internal floating cover, resting on the liquid surface, equipped with seals between the roof and tank wall shall be considered as appropriate control equipment to prevent such vapor loss. Tank gauging devices shall be gas tight except when tank gauging or sampling is taking place;

(4) Vapor recovery systems capable of collecting volatile organic vapors and a disposal system capable of processing such vapors in a manner that prevents their discharge to the atmosphere shall be considered as appropriate control equipment to prevent such vapor loss.

(50.3) Section 10. Nitrogen Oxides.

a. The ambient air standard for nitrogen dioxide, measured by the reference method described in Appendix F, Federal Register, Volume 36, No. 84, April 30, 1971, or by an equivalent method is:

(1) 100 micrograms per cubic meter (0.05 ppm)--annual arithmetic mean.

b. The emission standards for nitrogen oxides, measured by the method described in Appendix, Method 7, Federal Register, Volume 36, No. 159, August 17, 1971, or by an equivalent method are:

(1) The emission of nitrogen oxides from new gas fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.20 pound per million BTU (0.36 grams per million gram calories) of heat input.

(2) The emission of nitrogen oxides from existing gas fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.23 pound per million BTU (0.41 grams per million gram calories) of heat input.

(3) The emission of nitrogen oxides from new oil fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.30 pounds per million BTU (0.54 grams per million gram calories) of heat input for units having a heat input of 1.0 million BTU per hour (250 million gram calories/hour) or greater and 0.60

pounds per million BTU (1.08 grams per million gram calories) of heat input for units having a heat input less than 1.0 million BTU per hour (250 million gram calories/hour).

(4) The emission of nitrogen oxides from existing oil fired fuel burning equipment calculated as nitrogen dioxide shall be limited to 0.46 pounds per million BTU (0.83 grams per million gram calories) of heat input for units having a heat input of 250 million BTU per hour (62.5 gram calories/hour) or greater and 0.60 pound per million BTU (1.08 grams per million gram calories) of heat input for units having a heat input less than 250 million BTU per hour (62.5 billion gram calories/hour).

(5) The emission of nitrogen oxides from new nitric acid manufacturing plants, calculated as nitrogen dioxide shall be limited to 3 pounds per ton (1.5 kilograms per metric ton) of acid produced, maximum 2 hour average.

(6) The emission of nitrogen oxides from existing nitric acid manufacturing plants, calculated as nitrogen dioxide shall be limited to 5.5 pounds per ton (2.8 kilograms per metric ton) of acid produced, maximum 2 hour average.

(7) The emission of nitrogen oxides from new solid fossil fuel (except lignite) fired equipment calculated as nitrogen dioxide shall be limited to 0.70 pounds per million BTU (1.26 grams per million gram calories) heat input.

(8) The emission of nitrogen oxides from existing solid fossil fuel (except lignite) fired equipment calculated as nitrogen dioxide shall be limited to 0.75 pounds per million BTU (1.35 grams per million gram calories) heat input.

c. The requirements of this section shall not apply to internal combustion engines having a heat input of less than 200 million BTU per hour.

(50.7) Section 11. Fluorides.

a. The ambient air standard for fluorides measured as hydrogen fluoride is:

(1) 0.80 micrograms per cubic meter (1 part per billion) 24 hour average or when the concentration of fluorides in forage for animal consumption, measured as fluorine, dry weight basis is 25 micrograms per gram.

b. The ambient air standard for gaseous fluorides measured by the sodium formate paper method or equivalent is 0.3 micrograms per square centimeter, maximum 30 day value.

(50.5) Section 12. Carbon Monoxide.

a. The ambient air standard for carbon monoxide, measured by nondispersive infrared spectrometry, as described in Appendix C. Federal Register, Volume 36, No. 84, April 30, 1971, or by an equivalent method is:

(1) 10 milligrams per cubic meter (9 ppm)--maximum 8 hour concentration not to be exceeded more than once per year;

(2) 40 milligrams per cubic meter (35 ppm)--maximum 1 hour concentration not to be exceeded more than once per year.

b. The emission of carbon monoxide in stack gases from any stationary source shall be limited as may be necessary to prevent ambient standards described in this standard from being exceeded. Measures considered appropriate for such control are:

(1) Treatment of the waste gas stream by installation and use of a direct flame afterburner or other means which will achieve the required reduction as approved by the Division.

(51.13) Section 13. Open Burning Restrictions.

a. Refuse burning restrictions

(1) No person shall dispose of refuse by open burning, or cause, suffer, allow or permit open burning of refuse.

(2) Regardless of provision of Subsections a. (1) of this regulation, open burning on residential premises of refuse originating in dwelling units on the same premises shall not be a violation of this regulation in areas of low population density. A density of 100 dwelling units or less per square mile shall be used as an approximate definition of areas of low population density.

b. Restrictions on open burning of trade wastes

(1) No person shall cause or permit the disposal of trade wastes or conduct or cause or permit a salvage operation by open burning, except as provided in Subsection b. (2) of this regulation.

(2) The open burning resulting from a salvage operation or disposal of trade wastes may be permitted when it can be shown by a person that such open burning is absolutely necessary and in the public interest. Any person intending to engage in such open burning shall file a request to do so with the Division of Air Quality. The application shall state the following:

(a) the name, address, and telephone number of the person submitting the application;

(b) the type of business or activity involved;

(c) a description of the proposed equipment and operating practices, the type, quantity, and composition of wastes to be burned, and the expected composition and amount of air contaminants to be released to the atmosphere;

(d) the schedule of burning operation;

(e) the exact location where open burning will be used to dispose of such waste;

(f) reasons why no method other than open burning can be used for disposal;

(g) evidence that the proposed open burning has been approved by any fire department which may have jurisdiction. Upon approval of the application by the Division of Air Quality, the person may proceed with the operation without being in violation of Subsection b. (1).

c. Restrictions on open burning of plant and forestry wastes

(1) The open burning of plant life grown on the premises in the course of any agricultural or forestry operation may be permitted when it can be shown that such open burning is necessary and that no fire hazard or public nuisance will occur.

(50.1) Section 14. Control of Particulate Emissions.

a. Visible emissions of any contaminant discharged into the atmosphere from any single new source of emission whatsoever as determined by a qualified observer shall be limited to 20 percent opacity.

b. Visible emissions of any contaminant discharged into the atmosphere from any single existing source of emission whatsoever as determined by a qualified observer shall be limited to 40 percent opacity. This limitation shall not apply to existing incinerators.

c. The emission of visible air pollutants from gasoline engines shall be eliminated except for periods not exceeding five consecutive seconds.

d. The emission of visible air pollutants from diesel engines as determined by a qualified observer shall be limited to 30 percent opacity below 7500 feet elevation except for periods not exceeding ten consecutive seconds. This limitation shall not apply during a reasonable period of warmup following a cold start or where undergoing repairs and adjustment following a malfunction.

e. Any single source may discharge for a period or periods aggregating not more than 6 minutes in any hour contaminants;

(1) Having an equivalent opacity of not more than 40 percent as determined by a qualified observer.

f. The emission of fugitive dust shall be limited by all persons handling, transporting, or storing any material to prevent unnecessary amounts of particulate matter from becoming airborne to the extent that ambient air standards described in these regulations are exceeded. Control measures described as follows or any equivalent method shall be considered appropriate for such control:

(1) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings, or structures, construction operations, the grading of roads or the clearing of land;

(2) Application of asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which can give rise to airborne dusts;

(3) Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials; adequate containment methods shall be employed during sandblasting or other similar operations;

(4) Covering, at all times when in motion, open bodied trucks, transporting materials likely to give rise to airborne dust;

(5) Conduct of agricultural practices such as tilling of land, application of fertilizers, et cetera, in such a manner as to prevent dust from becoming airborne;

(6) The paving of roadways and their maintenance in a clear condition;

(7) The prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water, or other means.

g. The emission of particulate matter from any new source shall be limited as indicated in Table I. The emission of particulate matter from any existing source shall be limited as indicated in Table II.

(1) Process weight per hour means the total weight of all materials introduced into any specific process that may cause any emissions of particulate matter, including solid fuels, but excluding liquids or gasses used solely as fuels, and excluding air introduced for purposes of combustion, and excluding the weight of any water, water vapor or steam that may be introduced as part of the total materials. However water contained as part of the normal input to a beet pulp dryer process shall be included as part of the process weight per hour.

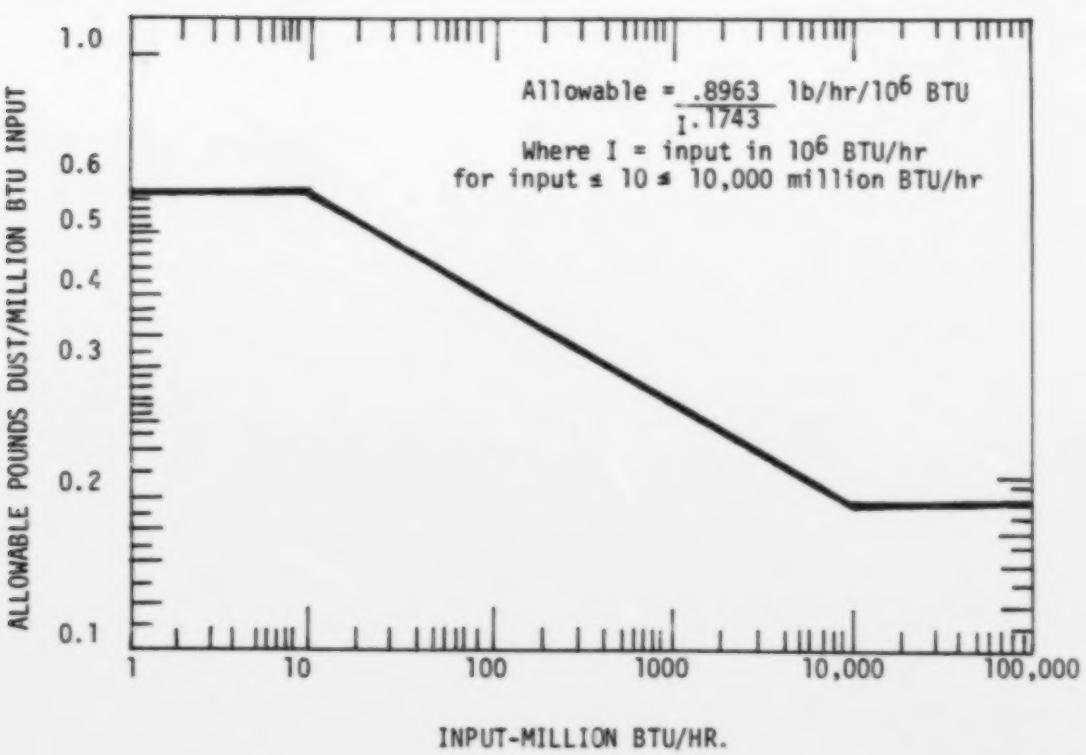
(2) For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any

given process to the completion thereof, excluding any time during which the equipment is idle.

(3) For a continuous operation, the process weight per hour is derived by dividing the process weight for a typical period of time.

(4) Emission tests relating to this regulation shall be measured according to Section 60.85, Appendix, Method 5, Federal Register Volume 36, No. 247, December 23, 1971.

FIGURE 1: PARTICULATE EMISSION LIMITS



h. The emissions of particulate matter from existing sources where fuel burning equipment is used for indirect heating shall be limited as shown in Figure 1 and shall be applicable to equipment burning solid fuel. The emissions of particulate matter from new sources where fuel burning equipment is used for indirect heating shall be limited to 0.10 pound per million BTU input (0.18 grams per million calories)

maximum 2 hour average. The visible emissions of particulate matter from new sources where fuel burning equipment is used for indirect heating shall be no greater than 20 percent opacity, except that 40 percent opacity shall be permitted for not more than 2 minutes in any hour.

(1) This regulation applies to installations in which fuel is burned for the primary purpose of producing steam, hot water, *or hot air or other indirect heating of liquids, gases, or* solids, and, in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels include those such as coal, coke, lignite, fuel oil, and wood, but do not include refuse. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

(2) The heat content of coal shall be determined according to the ASTM method D-271-64 Laboratory Sampling and Analysis of Coal and Coke or ASTM method D-2015-62T Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter, which publications are made a part of this regulation by reference.

(3) For purposes of this regulation, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks. The heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input for determining the maximum allowable amount of particulate matter which may be emitted.

(4) The amount of particulate matter emitted shall be measured by a source test method approved by the Division for stationary sources and shall be consistent with Section 60.85, Method 5, Federal Register, Volume 36, No. 247, dated December 23, 1971.

i. The emission of particulate matter from any incinerator shall be limited to:

(1) 0.20 pound per 100 pounds (2 grams per kilogram) of refuse charged as determined by a source test method approved by the Division for stationary sources as described in Subsection g. (4) of this regulation;

(2) A shade or density equal to but not greater than 20 percent opacity as determined by a qualified observer.

j. Where the presence of uncombined water is the only reason for failure of an emission to meet the opacity requirements of Section 14 of this regulation, such opacity requirements shall not apply.

(51.20) Section 15. Wood Waste Burners.

a. Emissions of any air contaminant from any wood waste burner discharged into the atmosphere for a period or periods aggregating more than 6 minutes in any one hour shall not exceed:

(1) An opacity of 20 percent as determined by a qualified observer.

b. Operational requirements for all wood waste burners shall include:

(1) A thermocouple and recording pyrometer or other temperature measurement and recording device approved by the Division shall be installed and maintained;

(2) A daily written log of the wood waste burner operation shall be maintained to determine optimum operational patterns for different fuel and atmospheric conditions. Such log shall include, but not be limited to, the time of day, draft settings, exit gas temperatures, type of fuel, and atmospheric conditions. It must be shown that there is adequate time and responsibility delegated for proper burner maintenance, operation, and control; such log or a copy shall be made available to the Division within 10 days upon request;

(3) Asphaltic materials, rubber products, or materials which cause dense smoke discharges shall not be burned or disposed in wood waste burners;

(4) Continuous flow conveying methods shall be utilized to convey process wood waste to the combustion chamber of the wood waste burners.

c. During startup and building of fires, in wood waste burners, the particulate, opacity, and darkness limits specified in this regulation may be exceeded for not more than 60 minutes in eight hours. Materials prohibited in Subsection b. (3) shall not be used for startup and building of fires in wood waste burners.

(50.6) Section 16. Odors.

a. The ambient air standard for odors from any source shall be limited to:

(1) An order emission at the property line from which such emissions occur of sufficient strength to be equal to but not greater than that detectable after seven dilutions with odor free air as determined by a scentometer as manufactured by the Barnebey-Cheney Company or any other instrument, device, or technique designated by the Division as producing equivalent results. The occurrence of odors shall be measured so that at least two measurements can be made within a period of one hour, these determinations being separated by at least 15 minutes.

b. No person shall operate or use any device, machine, equipment or other contrivance for the reduction of animal matter unless all gases, vapors and gas entrained effluents from such facility are incinerated at a temperature of not less than 1200 degrees Fahrenheit for a period not less than 0.3 second, or processed by condensation or such manner as determined by the Division to be equally or more effective for the purpose of controlling such emissions.

(1) A person incinerating or processing gases, vapors, or gas entrained effluents pursuant to this rule shall provide, properly install, and maintain in good working order and in operation, devices as specified by the Division for indicating temperature, pressure, or other operating conditions.

(2) Effective odor control devices, systems, or measures shall be installed and operated such that no vent, exhaust pipe, blow-off pipe, or opening of any kind shall discharge into the outdoor air any odorous matter, vapors, gases, or dusts, or any combination thereof, which create odors in areas adjacent to the plant in excess of the limits described in Section 16 a. (1) of this regulation.

c. Odor producing materials shall be stored, transported, and handled in a manner that:

(1) Odors produced from such materials are confined and that accumulation of such materials resulting from spillage or other escape is prevented.

d. Whenever dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building used for processing animal matter in such manner and amount as to cause a violation of Subsection a. (1) and (2) of this regulation the Division may require that the building or buildings in which processing, handling, and storage are done be tightly closed and ventilated in such a manner that all airborne effluent materials leaving the building be treated by an effective means for removal or destruction of odorous matter before release to the open air.

(12.0) Section 17. Motor Vehicle Pollution Control.

a. No person shall intentionally remove, alter or otherwise render ineffective or inoperative, exhaust emission control, crankcase ventilation or any other air pollution control device or system which has been installed on a motor vehicle or stationary internal combustion engine as a requirement of any federal law or regulation.

b. No person shall operate a motor vehicle or other internal combustion engine originally equipped with air pollution devices or systems as required by any federal law or regulation unless such devices or systems are in place and in operating condition.

c. Subsections a. and b. of this regulation shall not apply to vehicles or stationary internal combustion engines which have been modified or altered to use a fuel other than gasoline or diesel fuel, except that such units shall comply with existing standards for emissions therefrom.

(2.0) Section 18. Diluting and Concealing Emissions.

a. No person shall cause or permit the installation or use of any device, contrivance or operational schedule which, without resulting in reduction of the total amount of air contaminant released to the atmosphere, shall dilute or conceal an emission from a source.

b. Subsection a. of this regulation shall not apply to the control of odors.

(7.0) Section 19. Abnormal Conditions and Equipment Malfunction.

a. Emissions in excess of established regulation limits as a direct result of malfunction or abnormal conditions or breakdown of a process, control or related operating equipment beyond the control of the person or firm owning or operating such equipment shall not be deemed to be in violation of such regulations, if the Division is advised of the circumstances within 24 hours of such malfunction and a corrective program acceptable to the Division is furnished.

(8.0) Section 20. Air Pollution Emergency Episodes.

a. This regulation is designed to prevent the excessive buildup of air pollutants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these pollutants on the health of persons.

b. Conditions justifying the proclamation of an air pollution alert, air pollution warning or air pollution emergency shall be deemed to exist whenever the Division determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the Division will be guided by the following criteria:

(1) Air pollution forecast: An internal watch by the Division shall be activated by a National Weather Service advisory that an Atmospheric Stagnation Advisory, or the equivalent local forecast of a stagnant atmospheric condition is in effect.

(2) Air pollution alert: The alert level is that concentration of pollutants at which first stage actions begin. An alert will be declared when any one of the following is reached at any monitoring site:

(a) Suspended particulate - 3.0 Cohs or 375 ug/m^3, 24 hour average;

(b) SO_2 and particulate combined - product of SO_2 ppm, 24 hour average and Cohs equal to 0.2 or product of SO_2 ug/m^3, 24 hour average and particulate ug/m^3, 24 hour average equal to 65 x 10^3 and meteorological conditions are such the pollutant concentrations can be expected to remain at the above levels for twelve or more hours or increase unless control actions are taken.

(3) Warning: The warning level indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will be declared when any one of the following levels is reached in any monitoring site:

(a) Suspended particulate - 5.0 Cohs or 625 ug/m^3, 24 hour average;

(b) SO_2 and particulate combined--product of SO_2 ppm, 24 hour average and Cohs equal to 0.8 or product of SO_2 ug/m^3, 24 hour average and particulate ug/m^3, 24 hour average equal to 261 x 10^3, and meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for 12 or more hours or increase unless control actions are taken.

(4) Emergency: The emergency level indicates that air quality is continuing to degrade to a level of significant harm to the health of persons and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site:

(a) Suspended particulate - 7.0 Cohs or 875 ug/m^3, 24 hour average;

(b) SO_2 and particulate combined--product of SO_2 ppm, 24 hour average and Cohs equal to 1.2 or product of SO_2 ug/m^3, 24 hour average and particulate ug/m^3, 24 hour average equal to 393 x 10^3, and meteorological conditions are such that this condition can be expected to continue for 12 or more hours.

(5) Termination: Once declared, any status reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At such time, the next lower status will be assumed.

c. Whenever the Division declares that one of the above mentioned levels exists, it shall take such control actions which in its best judgment will lower the pollutant concentrations.

(3.0) Section 21. Permit Requirements for Construction, Modification and Operation.

a. Any person who plans to construct any new facility, modify any existing facility, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming Department of Environmental Quality before any actual work is begun on the facility. An operating permit shall be obtained from the State of Wyoming Department of Environmental Quality in order to operate the facility after a 120 day start-up period. A permit to operate shall also be required if a source existing in the state is moved to a new location and expects to commence operation in their new location.

b. The owner of the facility or the operator of the facility authorized to act for the owner is responsible for applying for and obtaining a permit to construct and/or operate. The application shall be made on forms provided by the Division of Air Quality and each application shall be accompanied by site information, plans, descriptions, specifications, and drawings showing the design of the source, the nature and amount of the emissions, and the manner in which it will be operated and controlled. A separate application is required for each source. Any additional information, plans, specifications, evidence, or documentation that the Administrator of the Division of Air Quality may require shall be furnished upon request.

c. No approval to construct or modify shall be granted unless the applicant shows, to the satisfaction of the Administrator of the Division of Air Quality that:

(1) The proposed facility will comply with all rules and regulations of the Wyoming Department of Environmental Quality, Division of Air Quality, and with the intent of the Wyoming Environmental Quality Act.

(2) The proposed facility will not prevent the attainment or maintenance of any ambient air quality standard.

(3) The proposed facility will not cause significant deterioration of existing ambient air quality in the Region as defined by any Wyoming standard or regulation that might address significant deterioration.

(4) The proposed facility will be located in accordance with proper land use planning as determined by the appropriate state or local agency charged with such responsibility.

(5) The proposed facility will utilize the best available control technology with consideration to the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility.

(6) The proposed facility will have provisions for measuring the emissions of significant air contaminants as determined by the Administrator of the Division of Air Quality.

(7) The proposed facility will achieve the performance specified in the application for a permit to construct or modify. If the applicant cannot demonstrate that the facility will comply with this provision, a conditional construction/modification permit may be granted until such time as the applicant can demonstrate compliance with this provision.

d. No permit to operate may be granted until the applicant demonstrates to the satisfaction of the Administrator of the Division of Air Quality that:

(1) The facility is complying with the Wyoming Air Quality Standards and Regulations applicable at the time the permit to construct or modify was granted and with the intent of the Wyoming Environmental Quality Act, 1973.

(2) The facility has been constructed or modified in accordance with the requirements and conditions contained in the permit to construct or modify.

e. The Administrator of the Division of Air Quality may impose any reasonable conditions upon an approval to construct, modify or operate including, but not limited to, conditions requiring the source to be provided with:

(1) Sampling and testing facilities as the Administrator may require.

(2) Safe access to the sampling facilities.

(3) Instrumentation to monitor and record emission data.

f. The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval, conditional approval, or denial of the application. The Administrator will set forth his reasons for any denial.

g. A permit to construct or modify shall remain in effect until the permit to operate the facility for which the application was filed is granted or denied or the application is cancelled. The Administrator may cancel an approval to construct if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

h. Any owner or operator subject to the provisions of this regulation shall furnish the Administrator written notification as follows:

(1) A notification of the anticipated date of initial start-up of each source not more than 60 days or less than 30 days prior to such date.

(2) A notification of the actual date of initial start-up of each source within 15 days after such date.

i. Within 30 days after achieving the maximum design production rate for which the permit is approved and at which each source will be operated, but not later than 90 days after initial start-up of such sources, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of such performance test.

(1) Such test shall be at the expense of the owner or operator.

(2) The Administrator may monitor such test and may also conduct performance tests.

(3) The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(4) The Administrator may waive the requirement for performance tests if the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is being operated in compliance with all State and Federal regulations which are part of the applicable plan.

(5) If the maximum design production rate for which the permit is approved is not achieved within 90 days of initial start-up, testing will be conducted on a schedule to be defined by the Administrator. This schedule may require that the source be tested at the production rate achieved within 90 days of initial start-up and again when maximum design production rate is achieved.

j. Approval to construct shall not be required for:

(1) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(2) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(3) Fuel burning equipment other than a smokehouse generator which has a heat input of not more than 25 million BTU per hour (6.25 billion gm-cal/hr) and burns only gaseous fuel containing not more than 20 grains total sulfur per 100 std. ft^3; has a heat input of not more than 1 million BTU/hr (250 million gm-

cal/hr) and burns only distillate oil; or has a heat input of not more than 350,000 BTU/hr (88.2 million gm-cal/hr) and burns any other fuel.

(4) Mobile internal combustion engines.

(5) Laboratory equipment used exclusively for chemical or physical analyses.

k. Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, state and federal rules and regulations.

l. After the Administrator has reached a decision based upon the information presented in the permit application to construct or modify, the Division of Air Quality will advertise such proposed decision in a newspaper of general circulation in the county in which the source is proposed. This advertisement will indicate the general nature of the proposed facility, the proposed approval/disapproval of the permit, and a location in the region where the public might inspect the information submitted in support of the requested permit and the Air Quality Division's analysis of the effect on air quality. The public will be afforded a 30 day period in which to make comments and recommendations to the Division of Air Quality. A public hearing may be called if sufficient interest is generated or if any aggrieved party so requests in writing within the 30 day comment period. After considering all comments, including those presented at any hearings held, the Administrator will reach a decision and notify the appropriate parties.

TABLE I

Process Weight Rate (lbs./hr.)	Emission Rate (lbs./hr.)
50	0.36
100	0.55
500	1.53
1,000	2.25
5,000	6.34
10,000	9.73
20,000	14.99
60,000	29.60
80,000	31.19
120,000	33.28
160,000	34.85
200,000	36.11
400,000	40.35
1,000,000	46.72

Interpolation of the data in Table I for the process weight rates up to 60,000 lbs./hr. shall be accomplished by the use of the equation:

$$E = 3.59\ P^{0.62} \quad P \leq 30 \text{ tons/hr.}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs./hr. shall be accomplished by use of the equation:

$$E = 17.31\ P^{0.16} \quad P > 30 \text{ tons/hr.}$$

Where: E = Emissions in pounds per hour.
P = Process weight rate in tons per hour.

TABLE II

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lb/Hr	Tons/Hr	Lb/Hr	Lb/Hr	Tons/Hr	Lb/Hr
100	0.05	0.551	16,000	8.	16.5
200	0.10	0.877	18,000	9.	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.58	50,000	25.	35.4
1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3,500	1.75	5.96	100,000	50.	44.6
4,000	2.00	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70.	47.8
6,000	3.00	8.56	160,000	80.	49.0
7,000	3.50	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500.	69.0
9,000	4.50	11.2	2,000,000	1,000.	77.6
10,000	5.00	12.0	6,000,000	3,000.	92.7
12,000	6.00	13.6			

Interpolation of the data in Table II for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation $E = 4.10\ p^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation:

$E = 55.0\ p^{0.11} - 40$, where E = rate of emission in lb/hr

and P = process weight rate in tons/hr.

Notwithstanding any other provision of this Table, any existing air contaminant source utilizing an air pollution control device having a collection efficiency of 99.5 percent or better, shall be deemed to be in compliance with all provisions of this regulation. Such efficiency shall be determined by a professional engineer licensed to practice in Wyoming and all expenses incurred in such determination shall be defrayed by the person responsible for the emission.

CHAPTER II

RULES OF PRACTICE AND PROCEDURE BEFORE THE WYOMING AIR RESOURCES COUNCIL

(15.0) Section 1. Authority.

These Rules of Practice and Procedure are promulgated pursuant to Section 35-491(a), Wyoming Statutes 1957 as amended, and Sections 9-276.20 and 9-276.21, Wyoming Statutes 1957 as amended.

(1.0) Section 2. Definitions.

By reference all of the definitions set forth and contained in Section 35-489, Wyoming Statutes 1957 as amended, are incorporated herein. In addition, the following definitions are set forth:

a. "Administrator" - Director of the Division of Industrial Hygiene, Wyoming State Department of Public Health.

b. "Chairman" - The Chairman of the Wyoming Air Resources Council. In this capacity he shall act as chief hearing officer and spokesman for the Council in all hearings.

c. "Contestee" - Any person, firm or corporation who appeals from an order of a division of the Wyoming Department of Public Health under the provisions of Section 35-495, Wyoming Statutes 1957 as amended.

d. "Council" - The Wyoming Air Resources Council as created and defined by Section 35-490, Wyoming Statutes 1957 as amended.

e. "Interested Party" - Any person, firm or corporation whose legal rights, obligations and privileges may be affected by any action of the Department of Public Health or the Council.

f. "Party" - Any Contestee or interested party as defined by these rules.

(16.0) Section 3. Initiation of Proceedings.

a. All appeals to the Council pursuant to the terms of Section 35-495, Wyoming Statutes 1957 as amended, shall be initiated by the Contestee pursuant to said Section 35-495, and Section 4 of these Rules.

b. All other hearings held before the Council pursuant to Section 35-491 (e), Wyoming Statutes 1957 as amended, may be initiated by the Administrator, interested parties, or the Council on its own motion. Said hearings shall be initiated pursuant to Section 4 of these Rules.

c. All hearings requested by petition pursuant to Section 3b of these Rules will be subject to dismissal upon the sole discretion of the Council.

(3.0) Section 4. Petition Required.

All hearings requested before the Council pursuant to Section 3 of these Rules shall be based upon a formal petition. The petition shall be filed in the Administrator's office in the State Office Building, Cheyenne, Wyoming, and shall have the following format:

a. The name and address of the petitioning party.

b. A statement in ordinary and concise language of the facts on which the petition is based, including, whenever applicable, particular reference to statutory sections and/or rules, regulations and orders involved.

c. A statement setting forth the appropriate relief sought.

(2.0) Section 5. Liberal Construction.

These Rules shall be liberally construed to secure a just, speedy and inexpensive determination of the issues presented.

(2.0) Section 6. Service of Notice.

Within twenty (20) days after receipt of a petition, the Administrator shall serve upon Contestee and interested parties of record, or their authorized attorneys or agents, a full, true and correct copy of the petition. Said service may be made either personally or by publication, as follows:

a. Personally. Said service, if made by a sheriff, constable or other official, shall be made in the manner prescribed by the Wyoming Rules of Civil Procedure. Said service may be made by any person not an officer, who is of lawful age and not a party in interest. Return of such service shall be made by the certification of the officer who made such service, or if made by a person other than an officer, by his affidavit. Such return of service must be filed with the Administrator prior to the commencement of the hearing.

b. Publication. Upon publication, if it is determined by the Administrator upon filing of a petition that personal service may not be made, and all of the parties involved in the proceedings are within the State of Wyoming, service may be made by one publication in a newspaper published in the county where the hearing shall be held. Following the publication of such notice, the Administrator shall mail a true and correct printed copy of any such notice by certified mail to the last known post office address of the parties involved. Evidence of such service shall be kept and retained by affidavit to be filed by the Administrator as a part of these proceedings.

(2.0) Section 7. Docket.

When a proceeding is instituted by filing a petition, the Administrator shall assign it a number and include the date of its filing on a separate

page of a docket provided for such purpose. The Administrator shall establish a separate file for each such docketed case in which shall be systematically placed all papers, pleadings, documents, transcripts and evidence pertaining thereto and all such items shall have noted thereon the docket number assigned and the date of filing.

(2.0) Section 8. Default in Answering or Appealing.

In the event of failure of any party to answer or otherwise appear within the time allowed, and provided that the foregoing rules as to service have been complied with, the party so failing to answer or otherwise plead or appear shall be considered in default, and the allegations of the petition shall be taken as true.

(16.0) Section 9. Pre-Hearing Conference.

In the descretion of the Council and upon request of any party a pre-hearing conference shall be held pursuant to the scope and procedure of Rule 16 of the Wyoming Rules of Civil Procedure. However, in no event will such pre-hearing conference be held later than ten (10) days before the hearing. All references in Rule 16 to the "Court" shall be deemed to refer to the "Council." In addition, all references in said rule to "Trial" shall be deemed to refer to "Hearing."

(16.0) Section 10. Hearing.

At the date, time and place of hearing as directed by the Council, and in accordance with the notice given, the Council shall hear all matters presented. All issues set forth in the petition shall be presented by the Administrator or an agent acting on behalf of the Administrator, as designated by the Administrator. Any Contestee or interested party may be represented personally or by counsel, provided that such counsel are duly authorized to practice law in the State of Wyoming or are otherwise associated with one or more attorneys who are authorized to practice law in the State of Wyoming.

(16.0) Section 11. Order of Procedure at Hearing.

As nearly as may be, hearings shall be conducted in accordance with the following order of procedure:

a. The Chairman of the Council shall announce that the hearing is convened upon the call of the docket number and title of the matter in the case to be heard; and thereupon the Chairman shall direct the Administrator to read the petition into the record, and shall note for the record all subpoenas issued, and all appearances of record, including contestees, interested parties and their counsel of record.

b. All witnesses who are present to give testimony in the hearing shall arise, identify themselves, indicate on whose behalf testimony will be given, and be sworn by the Chairman. Opening statements may be based upon the discretion of the Chairman and Council.

c. The Administrator or his agent, counsel or representative shall proceed to present the Administrator's evidence. The Contestee may make presentations in the same manner as the Administrator's evidence, witnesses and exhibits have been heard and presented. In addition in the discretion of the Council interested parties may also make presentations in the same manner as the Administrator's evidence, witnesses and exhibits have been heard and presented. Witnesses may be cross-examined by both Administrator and Contestee. In the discretion of the Council interested parties may also cross-examine the witnesses. All exhibits offered by and on behalf of the Administrator shall be marked by letters of the alphabet beginning with "A." Each contestee's or interested party's exhibits shall be marked separately so as to identify the respective exhibits, commencing with the numeral designation 1-A for the first contestee, and 1-B for the next, 1-C for the next and so on for each contestee and interested party.

d. Any member of the Council, the Attorney General or a representative of his staff, may examine and cross-examine any and all witnesses.

e, The Chairman may, in his discretion, allow evidence to be offered out of the order as herein described.

f. Closing statements may be permitted at the discretion of Council. Time for such closing statements may be limited. No rebuttal statements may be made by any of the parties to the proceedings.

g. In addition to statements, testimony and documents introduced by the Administrator and Contestee, the Council may permit, in its discretion, all interested parties, as defined by these Rules, an opportunity to submit oral and written statements for the record. These statements will be limited to narrative form only, in compliance with Rule 10c. In no event will direct testimony or cross-examination be permitted by interested parties.

h. After all participants have been offered an opportunity to be heard, the Chairman shall excuse all witnesses and declare the evidence closed. The evidence in the case may be reopened at a later date for good cause shown by order of the Chairman, either upon his own motion or upon the motion of any party to the proceedings.

i. The Contestee or other interested parties to the proceedings may tender written legal briefs, either upon their own motions, or upon request of the Council. The Chairman will declare that the case is to be taken under advisement and that its decision and order will be announced.

(2.0) Section 12. Applicability of the Rules of Civil Procedure.

The Rules of Civil Procedure of the State of Wyoming, insofar as the same may be applicable and not inconsistent with the laws of the State of Wyoming and these Rules shall apply to matters before the Council.

(2.0) Section 13. Attorneys.

All persons appearing before the Council in a hearing, or persons who have filed an answer or made other appearance, have the right to represent themselves or be represented by an attorney of their choice. However, no attorney will be permitted to make statements, examine or cross-examine witnesses on behalf of any party unless such attorney is licensed to practice law in the State of Wyoming; or if not licensed to practice law in the State of Wyoming, such attorney shall be associated with a Wyoming attorney qualified to practice law in the State of Wyoming. These Rules shall not be construed to prohibit any person from representing himself in any hearing before the Council. However, any person appearing personally must abide by these Rules and the Rules of Civil Procedure, and the rules of evidence under the laws of the State of Wyoming.

(16.0) Section 14. Attorney General to Assist in Hearings.

In all matters before the Council, the Attorney General of Wyoming or a representative of his staff shall be present throughout the hearing to assist and advise the Council.

(16.0) Section 15. Reporting Testimony and Compensation of Reporter.

In all hearings held pursuant to the Act and these Rules and Regulations, all testimony shall be reported verbatim stenographically or by other appropriate means determined by the Council. The hourly cost for such reporting may be assessed as costs to any parties appearing in the hearing as directed by the Chairman.

(2.0) Section 16. Decisions, Findings of Fact, Conclusions of Law, Orders.

The Council shall, following a full and complete hearing, make and enter a written decision and order containing findings of fact and conclusions of law based upon the evidence, both testimonial and documentary, introduced and admitted, in addition to all matters officially noticed. Such decision, findings of fact, conclusions of law and order shall be filed with the Administrator and will, without further action, become the decision, findings and order as a result of the hearing. The Administrator shall, upon receipt of any decision, finding and order, send a copy to all parties involved, postage prepaid.

(2.0) Section 17. Appeals to District Court.

Appeals to the district court from decisions of the Council are governed by Section 9-276.36, Wyoming Statutes 1957 (Laws 1965) and Rule 72.1 of the Rules of Civil Procedure promulgated by the Supreme Court of the State of Wyoming.

(2.0) Section 18. Transcript in Case of Appeal.

In case of an appeal to the district court as above provided, the party appealing shall secure and file a transcript of the testimony and all

other evidence offered at the hearing, which transcript must be verified by the oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case. The compensation of the reporter for making the transcript of the testimony and all other costs involved in such appeal shall be borne by the party prosecuting such appeal.

(2.0) Section 19. Rules not Applicable to Investigations.

Nothing contained herein, nor any rules herein announced, shall be applicable to investigations which may or might be carried on and conducted by the Administrator under the terms and provisions of Sections 35-493 and 35-495, Wyoming Statutes 1957 as amended.

(2.0) Section 20. Amendment of Rules.

Any amendments to these Rules shall become effective as provided by Sections 9-276.21 and 9-276.22, Wyoming Statutes 1957 as amended.

FEDERALLY PROMULGATED

REGULATIONS

(10.0) 52.2623 Review of New or Modified Indirect Sources

(b) Regulation for Review of New or Modified Indirect Sources

(1) All terms used in this paragraph but not specifically defined below shall have the meaning given them in 52.01 of this chapter.

(i) The term "indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard. Such indirect sources include, but are not limited to:

(a) Highways and roads.

(b) Parking facilities.

(c) Retail, commercial and industrial facilities.

(d) Recreation, amusement, sports and entertainment facilities.

(e) Airports.

(f) Office and Government buildings.

(g) Apartment and condominium buildings.

(h) Education facilities.

(ii) The term "Administrator" means the Administrator of the Environmental Protection Agency or his designated agent.

(iii) The term "associated parking area" means a parking facility or facilities owned and/or operated in conjunction with an indirect source.

(iv) The term "aircraft operation" means an aircraft take-off or landing.

(v) The phrase "to commence construction" means to engage in a continuous program of on-site construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(vi) The phrase "to commence modification" means to engage in a continuous program of on-site modification, including site clearance, grading, dredging, or land filling in preparation for specific modification of the indirect source.

(vii) The term "highway section" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program as set forth in 23 CFR 770.201 (38 FR 31677).

(viii) The term "highway project" means all or a portion of a highway section which would result in a specific construction contract.

(ix) The term "Standard Metropolitan Statistical Area (SMSA)" means such areas as designated by the U.S. Bureau of the Budget in the following publication: "Standard Metropolitan Statistical Area," issued in 1967, with subsequent amendments.

(2) The requirements of this paragraph are applicable to the following:

(i) In an SMSA:

(a) Any new parking facility or other new indirect source with an associated parking area, which has a new parking capacity of 1,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 500 cars or more; or

(c) Any new highway project with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of construction; or

(d) Any modified highway project which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after modification.

(ii) Outside an SMSA:

(a) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 2,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 1,000 cars or more.

(iii) Any airport, the construction or general modification program of which is expected to result in the following activity within ten years of construction or modification:

(a) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(b) Modified airport: Increase of 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase of 1,600,000 or more passengers per year.

(iv) Where an indirect source is constructed or modified in increments which individually are not subject to review under this paragraph, and which are not part of a program of construction or modification in planned incremental phases approved by the Administrator, all such increments commenced after December 31, 1974, or after the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph.

(3) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after December 31, 1974, without first obtaining approval from the Administrator. Application for approval to construct or modify shall be by means prescribed by the Administrator, and shall include a copy of any draft or final environmental impact statement which has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321). If not included in such environmental impact statement, the Administrator may request the following information:

(i) For all indirect sources subject to this paragraph, other than highway projects:

(a) The name and address of the applicant.

(b) A map showing the location of the site of indirect source and the topography of the area.

(c) A description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated therein.

(d) A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site.

(e) An identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source.

(f) An estimate, as of the first year after the date the indirect source will be substantially complete and operational, of the average daily traffic volumes, maximum traffic volumes for one-hour and eight-hour periods, and vehicle capacities of the principal roads, highways, and intersections identified pursuant to subdivision (i) (e) of this subparagraph located within one-fourth mile of all boundaries of the site.

(g) Availability of existing and projected mass transit to service the site.

(h) Where approval is sought for indirect sources to be constructed in incremental phases, the information required by this subparagraph (3) shall be submitted for each phase of the construction project.

(i) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(ii) For airports:

(a) An estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth and tenth years after the date of expected completion.

(b) A description of the commercial, industrial, residential and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion.

(c) Expected passenger loadings at the airport.

(d) The information required under subdivisions (i) (a) through (i) of this subparagraph.

(iii) For highway projects:

(a) A description of the average and maximum traffic volumes for one, eight, and 24-hour time periods expected within 10 years of date of expected completion.

(b) An estimate of vehicle speeds for average and maximum traffic volume conditions and the vehicle capacity of the highway project.

(c) A map showing the location of the highway project, including the location of buildings along the right-of-way.

(d) A description of the general features of the highway project and associated right-of-way, including the approximate height of buildings adjacent to the highway.

(e) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(iv) For indirect sources other than airports and those highway projects subject to the provisions of paragraph (b) (6) (iii) of this section, the air quality monitoring requirements of paragraph (b) (3) (i) (i) of this section shall be limited to carbon monoxide, and shall be conducted for a period of not more than 14 days.

(4) (i) For indirect sources other than highway projects and airports, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The Administrator shall make the determination pursuant to paragraph (b) (4) (i) (b) of this section by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected to be attracted by the indirect source. Such determination may be made by using traffic flow characteristic guidelines

published by the Environmental Protection Agency which relate traffic demand and capacity considerations to ambient carbon monoxide impact, by use of appropriate atmospheric diffusion models (examples of which are referenced in Appendix O to Part 51 of this chapter), and/or by any other reliable analytic method. The applicant may (but need not) submit with his application, the results of an appropriate diffusion model and/or any other reliable analytic method, along with the technical data and information supporting such results. Any such results and supporting data submitted by the applicant shall be considered by the Administrator in making his determination pursuant to paragraph (b) (4) (i) (b) of this section.

(5) (i) For airports subject to this paragraph, the Administrator shall base his decision on the approval or disapproval of an application on the considerations to be published as an Appendix to this Part.

(ii) For highway projects and parking facilities specified under paragraph (b) (2) of this section which are associated with airports, the requirements and procedures specified in paragraphs (b) (4) and (6) (i) and (ii) of this section shall be met.

(6) (i) For all highway projects subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The determination pursuant to paragraph (b) (6) (i) (b) of this section shall be made by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the ten year period following the expected date of completion according to the procedures specified in paragraph (b) (4) (ii) of this section.

(iii) For new highway projects subject to this paragraph with an anticipated average daily traffic volume of 50,000 or more vehicles within ten years of construction, or modifications to highway projects subject to this paragraph which will increase average daily traffic volume by 25,000

or more vehicles within ten years after modification, the Administrator's decision on the approval or disapproval of an application shall be based on the considerations to be published as an Appendix to this Part in addition to the requirements of paragraph (b) (6) (i) of this section.

(7) The determination of the air quality impact of a proposed indirect source "at reasonable receptor or exposure sites", shall mean such locations where people might reasonably be exposed for time periods consistent with the national ambient air quality standards for the pollutants specified for analysis pursuant to this paragraph.

(8) (i) Within 20 days after receipt of an application or addition thereto, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b) (8) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the indirect source should be approved, approved with conditions in accordance with paragraphs (b) (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the proposed indirect source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination, and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed indirect source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the indirect source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the location where the indirect source will be situated, as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional

land use planning agency; and for highways, any local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraphs (b) (8) (ii), (iv), or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

(9) (i) Whenever an indirect source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section, the Administrator may impose reasonable conditions on an approval related to the air quality aspects of the proposed indirect source so that such source, if constructed or modified in accordance with such conditions, could meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section. Such conditions may include, but not be limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction thereof;

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for employees and patrons of the source; and

(c) Binding commitments by the owner or operator to construct, modify, or operate the indirect source in such a manner as may be necessary to achieve the traffic flow characteristics published by the Environmental Protection Agency pursuant to paragraph (b) (4) (ii) of this section.

(ii) The Administrator may specify that any items of information provided in an application for approval related to the operation of an indirect source which may affect the source's air quality impact shall be considered permit conditions.

(10) Notwithstanding the provisions relating to modified indirect sources contained in paragraph (b) (2) of this section, the Administrator may condition any approval by reducing the extent to which the indirect source may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct an indirect source in accordance with the application as approved by the Administrator; any owner or operator who fails to construct and operate an indirect source in accordance with conditions imposed by the Administrator under paragraph (b) (9) of this section; any owner or operator who modifies an indirect source in violation of conditions imposed by the Administrator under paragraph (b) (10) of this section; or any owner or operator of an indirect source subject to this paragraph who commences construction or modification thereof after December 31, 1974, without applying for and receiving approval hereunder, shall be subject to the penalties specified under section 113 of the Act and shall be considered in violation of an emission standard or limitation under section 304 of the Act. Subsequent modification to an approved indirect source may be made without applying for permission pursuant to this paragraph only where such modification would not violate any condition imposed pursuant to paragraphs (b) (9) and (10) of this section and would not be subject to the modification criteria set forth in paragraph (b) (2) of this section.

(12) Approval to construct or modify shall become invalid if construction or modification is not commenced within 24 months after receipt of such approval. The Administrator may extend such time period upon satisfactory showing that an extension is justified. The applicant may apply for such an extension at the time of initial application or at any time thereafter.

(13) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State implementation plan.

(14) Where the Administrator delegates the responsibility for implementing the procedures for conducting indirect source review pursuant to this paragraph to any agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult the appropriate State or local air pollution control agency prior to making any determination required by paragraphs (b) (4), (5), or (6) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such agency shall consult with the appropriate State or local land use and transportation planning agency prior to making any determination required by paragraph (b) (9) of this section.

(ii) The Administrator of the Environmental Protection Agency shall conduct the indirect source review pursuant to this paragraph for any indirect source owned or operated by the United States Government.

(iii) A copy of the notice required pursuant to paragraph (b) (8) (ii) (c) of this section shall be sent to the Administrator through the appropriate Regional Office.

(15) In any area in which a "management of parking supply" regulation which has been promulgated by the Administrator is in effect, indirect sources which are subject to review under the terms of such a regulation shall not be required to seek review under this paragraph but instead shall be required to seek review pursuant to such management of parking supply regulation. For purposes of this paragraph, a "management of parking supply" regulation shall be any regulation promulgated by the Administrator as part of a transportation control plan pursuant to the Clean Air Act which requires that any new or modified facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

(37 FR 10846, May 31, 1972 as amended at 40 FR 28065, July 3, 1975; 40 FR 40160, Sept. 2, 1975)

(17.0) 52.2630 Prevention of Significant Deterioration

(b) Definitions. For the purposes of this section:

(1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection or installation of a stationary source.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

(2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Pollutant	Area Designations: Class I (ug/m^3)	Area Designations: Class II (ug/m^3)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.

(iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(e) The redesignation is proposed after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed

under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

(1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

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